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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,559	11/05/2003	Curtis M. Hartenstine	061270-0903	1044

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FOLEY AND LARDNER
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WASHINGTON, DC 20007

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,559

Applicant(s)

HARTENSTINE ET AL.

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/21/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1, 3 and 7 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. 6,666,473. This is a double patenting rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-2, 4 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cone (4,606,550) in view of Maxi-Cosi car seat photographs.**

Cone in figures 1-3 discloses a stroller comprising a stroller frame having first and second front legs (17, 19), first and second rear legs (65, 66) and a seat-supporting

frame (83) having first and second arms (83, 85). The first arm connected to the first front leg and the first rear leg. The second arm connected to the second front leg and the second rear leg. Cone also discloses a passenger support base (79) connectable to the first and second arms of the seat-supporting frame. Cone fails to show the passenger support base has an upper surface having a trough provided therein and a seat cushion has a front portion that fits into and is secured in the trough.

Maxi-Cosi car seat in figures 2 and 6 discloses a car seat having a passenger support base and a seat cushion. The passenger supporting base having an upper surface having a trough provide therein. The seat cushion has a front portion that fits into and secured in the through. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the passenger support base of Cone with the car seat having a passenger support base having an upper surface having a trough provide therein as taught by Maxi-Cosi in order to secure the seat cushion into the passenger support base without sliding forwardly.

Regarding claim 8, Cone discloses the upper surface, which is contoured.

Regarding claim 9, Cone discloses a seat support frame (83) having first and second arms (83, 85) and the passenger support base connected to the first and second arms.

Regarding claims 2, 4 and 10-11, Maxi-Cosi in figures 1 and 8 discloses a car seat comprising a passenger support base. The seat support base has a bottom surface with at least one projection (figure 8) downwardly depending therefrom adjacent an at least one opening (figure 5). Maxi-Cosi also discloses a seat cushion having a

front edge with a tab (figure 9) for threading through the at least one slot and attachment to the at least one projection. Maxi-Cosi further discloses back portion with at least one slot therethrough and a back edge with at least one fastener (figure 1) thereon. The child seat cushion also has a strap that is threadable through the at least one slot and attachable to the at least one fastener.

Response to Arguments

5. Applicant's arguments filed 12/21/2004 have been fully considered but they are not persuasive. In response to applicant's remark that the present application do not claim the identical subject matter as claim 1 of U.S. Patent No. 6,666,793. The examiner disagrees, because claim 1 of the Patent No. 6,666,793 discloses the identical subject matter as claim 1, 3 and 7 of the present application. Although, the present application do not claim a first pivot rod, but all the other limitations are exactly present in claim 1 of the Patent No. 6,666,793. Therefore, the double rejection is still considered proper. The applicant also argues that Cone does not disclose arm (83) connected to the front leg (87). The examiner disagrees, because Cone in figure 3, discloses an arm (83) connected to the front leg (87) by a link (73).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
2/6/05

Hau V Phan
Examiner
Art Unit 3618